

### REMARKS

In response to the Office Action dated December 26, 2008, Applicant respectfully requests reconsideration of the above-captioned application.

In the Office Action, claims 1-31 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kondo et al. (U.S. Patent 7,127,736) in view of Ohmori et al. (U.S. 2002/0198844). This rejection is respectfully traversed.

In rejecting claim 1, the Office has correctly noted that Kondo et al. patent fails to teach the step of “determining whether or not to send the user message to the second interactive disk player depending on said comparison result.” Then, to overcome the deficiency in failing to teach the step, the Office has relied on the second reference and stated as follows:

In the same field of endeavor, Ohmori provides a system of comparing and matching intended playback time information previously stored in a provide device with a requested playback time information from a user of an interactive disk player connected to the device (*see* Ohmori, par. 0225, 0448; *see also fig.1*) Note that the acquiring time of device 50 is compared to agent-rental expiry time form [*sic*] the provide device and the result of the comparison is used to determine whether o [*sic*] playback the content in DVD player 40 receiving a message containing the result of the comparison ...

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Ort’s teachings of a system exchanging interactive messages from users with the teachings of Kondo....”

Applicant respectfully disagrees for at least the following reasons. First, the functions and operational mechanisms of the Kondo et al. system are fundamentally different from those of the Ort system. The Kondō et al. patent describes a system that generates value-added information regarding a video based on favorite information of a content user. The content is processed according to the generated value-added information. Favorite data indicating

operations, such as fast-forward, pause, and rewind operations, performed while the content is being played back, and personal user information, such as user group, the gender, and the life-style, of the content user are transferred to a server via network. The server performs a statistical processing on the user favorite data to generate value-added information according to the attributes to the user, such as the age group, the gender, and the life-style, and sends the value-added information to the content user. In contrast, the Ohmori et al. publication describes a DVD player (40 in Figure 1 of the Ohmori et al. publication) for playing back digital work stored in a disk, where the DVD player compares the current time with an expiry time stored in the disk to determine whether or not to playback the contents stored in the disk to a user. As such, the Ohmori et al. system requires, for the proper operation thereof, only one DVD player and a time source for providing the current time information while the Kondo et al. system requires multiple content playback apparatus. Accordingly, the functions and operational mechanisms of the Kondo et al. and Ohmori et al. systems are different from each other. Thus, it is not clear how and why a skilled artisan would be motivated to modify the Ohmori et al. system to reflect features of the Kondo et al. system in an effort to arrive at Applicant's invention. For a proper obviousness rejection, the Office must provide "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" and not "mere conclusory statements." *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 14 (U.S. Apr. 30, 2007) (quoting *In re Kahn*, 441 F.3d 977, 988, (Fed. Cir. 2006)). An obviousness rejection must rest upon a factual basis rather than conjecture, speculation or assumptions. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968).

Second, the alleged obviousness conclusion advanced by the Office recites “[a]ccordingly, it would be obvious ... Ohmori’s teachings of a system exchanging interactive message from users....” As discussed above, the Ohmori et al. system requires only one DVD player (40) and a time source (50) for providing the current time information, i.e., the Ohmori et al. system does not need multiple interactive DVD players for the purpose of exchanging messages among users. As such, it is not clear why a skilled artisan would be motivated to include a second interactive playback device that is seemingly redundant insofar as there is no need to exchange messages among users. Furthermore, to the reading of the undersigned, both the Kondo et al. patent and the Ohmori et al. publication are silent as to exchanging messages among users.

Third, the Ohmori et al. publication is silent as to “determining whether or not to send the user message to the second interactive disk player depending on said comparison result” as recited in claim 1. As disclosed in paragraph [0226] of the Ohmori et al. publication, the DVD player of the Ohmori et al. system performs the comparison between the agent-rental expiry time and the current time. Also, the DVD player reads the agent-rental expiry time stored in the disk. Thus, the Office appears to have equated the agent-rental expiry time information stored in the disk of the Ohmori et al. system to the user message of claim 1. In addition, the Office appears to have equated the DVD player to the second interactive disk player of claim 1 since the DVD player interacts with the user to receive a user request. If the Office’s interpretation were correct, the Ohmori et al. system would meet the recitation “determining whether or not to send the user message to the second interactive disk player depending on said comparison result” only if the DVD player of the Ohmori et al. system performs the comparison and subsequently determines

whether or not to send the agent-rental expiry time to itself based on the comparison result. This is not the case. The DVD player of the Ohmori et al. system merely reads the agent-rental expiry time information, but does not determine whether or not to *send* the agent-rental expiry time information to itself. As such, the Ohmori et al. publication fails to teach or suggest the recitation “determining whether or not to send the user message to the second interactive disk player depending on said comparison result,” as recited in claim 1.

Furthermore, the Office has stated that the DVD player of the Ohmori et al. system receives a message containing the result of the comparison between the agent-rental expiry time and the requested playback time. Also, as disclosed in paragraph [0226] of the Ohmori et al. publication, the DVD player performs the comparison. Thus, it is not clear how and why the DVD player would make a comparison and subsequently send the comparison result to itself. As such, the Ohmori et al. publication is silent as to “determining whether or not to send the user message to the second interactive disk player depending on said comparison result,” as recited in claim 1. Accordingly, neither of the cited references, taken alone or in combination, teach all the limitations of the claimed invention as required by 35 U.S.C. §103(a).

Based on the reasons set forth above, Applicant respectfully submits that a *prima facie* case of obviousness has not been established, and claim 1 is allowable. Claims 10, 19, and 25 contain similar claim language as that cited above with respect to claim 1 and are allowable for at least the reasons indicated above with respect to claim 1.

Dependent claims 2-9, 11-18, 20-24, and 26-31 depend from claims 1, 10, 19, and 25, rendering them also patentable for at least the same reasons. In addition, it is noted that the dependent claims add features which further distinguish the present invention from the applied

art. For instance, claim 9 recites sending the user message to the second interactive disk player. As discussed above, the Kondo et al. system sends value-added information, not a message from a disk player, to a content user. The Ohmori et al. system is silent as to first and second interactive disk players. Thus, neither the Kondo et al. nor Ohmori et al. systems teach or suggest sending a user request received from one disk player to another disk player. Accordingly, even if one were to assume, *arguendo*, that the teachings in Ohmori et al. publication could be incorporated into the Kondo et al. system, the hypothetical combination would not perform the step of "sending the user message to the second interactive disk player immediately without comparing the playback times included in the message request and the user message if the message is not intended for requesting a response from other arbitrary users" as recited in claim 9.

### **CONCLUSION**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Michael E. Monaco, Reg. No. 52,041, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

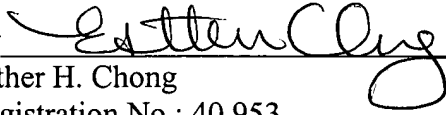
Application No. 10/802,224  
Amendment dated March 25, 2009  
Reply to Office Action of December 26, 2008

Docket No.: 1630-0413PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

Dated: **March 25, 2009**

Respectfully submitted,

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